

## Unless firms start paying attention to diversity, business may go downhill

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As we nudge closer to 2007, it is still the case that most Canadian law firms don't suffer from an overarching shortage of middleaged white males in their midst. However, a number of factors suggest that Canadian law firms will increasingly embrace diversity in their marketing and recruitment efforts in the year ahead.

Aside from the ethical impetus, the business case for making law firms more representative is becoming more evident. The pressure in this regard is coming primarily from two key constituencies — large corporate clients and young legal talent.

On the client side, major corporate clients with their own diversity initiatives already in place are starting to seek out legal service providers that mirror their own efforts. In-house legal marketers frequently cite the financial services sector as an example of one industry at the forefront on this issue. Anecdotally, law firm marketing directors also say their firms are more regularly encountering questions about diversity and firm values from clients across several industry sectors during the pitch process and more formally in Request For Proposal (RFP) documentation.

In the United States, the measures taken by Shell Oil's corporate legal department may be an example of the direction we are headed in Canada. In 2003, Shell went through the process of narrowing its roster of legal services suppliers to a core group of law firms that would receive the bulk of its outside legal work. Shell made diversity one of the key markers upon which its suppliers would be evaluated, both during the "beauty contest" itself and on a continuing basis thereafter.

Shell has clearly moved beyond tokenism — far beyond. The company asks its strategic partner law firms to break down their invoices by the race, ethnicity and gender of the billing lawyers, and tracks the statistics to ensure that women and minorities are not simply relegated to junior work. Once a year, Shell sends out reports showing how each firm compares relative to other Shell outside counsel, and providing bar graphs of hours billed and fees generated by female partners, female associates, minority partners and minority associates. Firms that consistently fall short of their peers face consequences.



Wal-Mart is another company that is asking its outside counsel to ramp up their diversity efforts in the United States. Like Shell, Wal-Mart is asking its supplier firms to do a better job in promoting women and minorities to key relationship manager roles.

We Canadians generally fancy ourselves a tolerant and multicultural bunch, and often feel a little smug when comparing ourselves to our friends south of the border in this regard. But on the diversity file, our American cousins appear further along — if not in the practical reality of adjusting the white male face of law firm partnership, then at least in recognizing and publicly responding to the issue. For example, Martindale-Hubbell provides firms with the option to publish a “Diversity Profile” as part of their Martindale.com directory listing. Firms that partake of this option have a small icon appearing beside their firm name in search result tables, akin to the process used to note firms that are peer review rated. So how many Canadian firms have taken advantage of this tool? A general search for all law firms listed on Martindale.com in each of Canada’s four largest legal markets — Toronto, Montreal, Calgary and Vancouver — returned a total of 752 listings. Of those, exactly TWO firms had a diversity profile at the time of writing, and both of those — Dorsey Whitney LLP and Hodgson Russ LLP — are the Canadian offices of American firms.

Likewise, website sections devoted to diversity issues are not uncommon among American firms (Robbins, Kaplan, Miller & Ciresi LLP — [www.rkmc.com](http://www.rkmc.com) — is one randomly selected example), but are virtually unheard of here.

It may be the case that U.S. firms are more active in establishing and promoting diversity initiatives because of the perceived consequences of not doing so. In addition to the pressure exerted by clients like Shell and Wal-Mart, *American Lawyer* magazine, in conjunction with the *Minority Law Journal*, publishes an annual “diversity scorecard” that rates 255 of that country’s largest law firms on the percentage of lawyers that are minorities. In the most recent survey, 240 of the 255 firms provided data in this regard. Clearly, American firms are engaged on this issue.

While the topic of diversity is more visible in the American context, it is increasingly appearing on law firm radar screens back here at home. Fasken Martineau DuMoulin LLP is one Canadian firm that has established a Diversity Task Force. According to Sue Fitzpatrick, Fasken’s Torontobased Chief Administrative Officer, the Task Force is expected to have direct influence on the firm’s 2007 Strategic Business Plan. Fitzpatrick points to the firm’s sponsorship of Catalyst Canada’s recent high-profile study



on flexibility and work-life balance issues in Canadian law firms as an example of the kind of practical measures with which the firm is already involved.

Diversity is also being driven from the junior ranks within the law firm environment. As competition for top legal talent becomes fiercer, firms are listening more attentively to the expectations of young lawyers, a demographic that increasingly seeks an inclusive, culturally diverse work environment.

Aleem Bharmal, chair of the Equality Committee of the B.C. Branch of the Canadian Bar Association, confirms that there is a generational shift underway. Working in conjunction with the Law Society of B.C.'s Equity and Diversity Committee and the Women in the Legal Profession Task Force, Bharmal's committee is also examining diversity initiatives in place in specific U.S. markets, including Chicago and San Francisco, where local Bar associations have established voluntary goals and timetables programs. These programs provide law firm signatories with another mechanism to structure and promote their diversity efforts with clients and during the recruitment process.

For firms looking to increase their diversity efforts, the following are five actions to consider for the year ahead:

1. implement commitments to specific diversity goals and create tracking systems to measure progress;
2. prepare an up-to-date diversity statement for inclusion in RFP responses;
3. make diversity an element of your firm's student and associate recruitment platform;
4. add a diversity profile to your firm's Martindale listing; and
5. create a diversity section on your firm website.

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